

46 Am. Jur. 2d Judges § 247

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Judges

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XII. Special, Substitute, or Pro Tem Judges

C. Rights, Powers, and Duties

§ 247. Authority of substitute judge after expiration of period of appointment

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  25(2)

Where the order states that the assignment will continue so long as necessary for the assigned judge to complete trial of any cause begun during the assignment period, the judge is authorized to preside over a trial not concluded by the ending date of the assignment.¹ Similarly, an order providing that the assignment will continue as necessary for the judge to pass on all matters growing out of cases tried by the judge encompasses orders in support of postjudgment discovery.²

Various statutes and court rules expressly or impliedly confer upon the special judge or judge pro tem the power to entertain motions for a new trial³ or to vacate judgment⁴ or to sign a bill of exceptions.⁵

On the other hand, posttrial motions not going to the validity of the judgment⁶ or contempt proceedings may be outside the authority of a temporary judge after expiration of the appointment.⁷ Additionally, where an assignment order has expired, the temporary judge cannot rule on a motion for postconviction relief.⁸

The statutory authority of a judge assigned to hold court in another district does not apply to new issues arising on subsequent proceedings in a cause after the judge has returned to such judge's own district.⁹

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Footnotes

- ¹ [Mangone v. State](#), 156 S.W.3d 137 (Tex. App. Fort Worth 2005), petition for discretionary review refused, (June 15, 2005).
- ² [O'Connor v. Smith](#), 815 S.W.2d 338 (Tex. App. Houston 1st Dist. 1991).

3 Hicks v. U.S. Shipping Board Emergency Fleet Corporation, 14 F.2d 316 (S.D. N.Y. 1926); State ex rel.
Hodshire v. Bingham, 218 Ind. 490, 33 N.E.2d 771, 134 A.L.R. 1126 (1941).
4 Peterson v. Finnegan, 45 N.D. 101, 176 N.W. 734 (1920).
5 Blasengym v. General Acc., Fire & Life Assur. Corp., 89 Ind. App. 524, 165 N.E. 262 (1929).
6 State ex rel. Wesley Const. Co. v. O'Connell, 347 So. 2d 442 (Fla. 3d DCA 1977).
7 Nierenberg v. Superior Court, 59 Cal. App. 3d 611, 130 Cal. Rptr. 847 (2d Dist. 1976); Hays v. Hays, 216
Ind. 62, 22 N.E.2d 971 (1939).
8 Diaz v. State, 868 So. 2d 1281 (Fla. 4th DCA 2004), all writ jurisdiction dismissed, 12 So. 3d 752 (Fla. 2009).
9 Frad v. Kelly, 302 U.S. 312, 58 S. Ct. 188, 82 L. Ed. 282 (1937).
As to authority of judge after expiration of temporary assignment in federal court, see Am. Jur. 2d, Federal
Courts § 35.

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